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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/273, 468 03/22/99 VOLOKH

V P-68422-US

EXAMINER

QM22/0309

AQUILINO & WELSH  
2341 JEFFERSON DAVIS HIGHWAY SUITE 112  
ARLINGTON VA 22202

TSAI, H	ART UNIT	PAPER NUMBER
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3722  
DATE MAILED:

14

03/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/273,468

Applicant(s)

VOLOKH, VLADIMIR

Examiner

Henry W.H. Tsai

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 23 January 2001.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 7-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 7-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15) <input type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	20) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

2. Claims 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by the U.S. Patent No. 2,966,081 to Kallio.

Kallio'081 discloses the claimed invention, as shown in Fig. 7, comprising: at least one tooth including a lateral cutting edge; the tooth face comprising: at least two sections, a first section(26 Fig. 8) nearest the cutting edge(above 25) having a convex form, and a second section in a concave form as viewed in cross section perpendicular to the cutter axis.

Note Kallio'081 also discloses the length of the first section being 20% or less than the entire length of the tooth face as shown in Fig. 7; and a concave chip-breaking section(see attached DEMO 1/1 mailed 8/24/00) between the first section and the second section.

***Response to Arguments***

3. Applicant's arguments filed 12/26/00 have been fully considered but they are not deemed to be persuasive.

Regarding the 35 U.S.C. §112, second paragraph problems, Applicant's response has overcome these objections and rejections.

Applicants argue that the second section as shown in the Examiner's DEMO is the back of a tooth and cannot be considered as the second section of the tooth face as claimed by Applicant (page 2, lines 13-14). Examiner disagrees with Applicants. As set forth in the art rejections above, Kallio'081 discloses the claimed invention, as shown in Fig. 7, comprising: the tooth face comprising: at least two sections, a first section (26 Fig. 8) nearest the cutting edge (above 25) having a convex form, and a second section in a concave form as viewed in cross section perpendicular to the cutter axis. Kallio'081 teaches the claimed invention.

***Conclusion***

4. This is a CPA of applicant's earlier Application No. 09/273,468. All claims are drawn to the same invention claimed

in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Contact Information*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Henry Tsai whose telephone number is (703) 308-7600. The examiner can

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normally be reached on Monday-Thursday from 8:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, A. L. Wellington can be reached on (703) 308-2159. The fax number for TC 3700 is (703) 305-3579. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703) 308-1148.

6. In order to reduce pendency and avoid potential delays, Group 3700 is encouraging FAXing of responses to Office actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3700 will be promptly forward to the examiner.



HENRY TSAI  
PRIMARY EXAMINER

March 5, 2001